

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

KEVIN LEON HORNE, Sr.,	:	
	:	Civ. No. 13-7376 (RBK) (JS)
Plaintiff,	:	
	:	MEMORANDUM ORDER
v.	:	
	:	
SOUTHWOODS PRISON, et al.,	:	
	:	
Defendants.	:	
	:	

Plaintiff is currently detained at the Mercer County Correctional Facility in Trenton, New Jersey. He brings this *pro se* civil rights action pursuant to 42 U.S.C. § 1983. On December 13, 2013, the Court administratively terminated this action as Plaintiff had failed to pay the \$400.00 filing fee or submit a complete application to proceed *in forma pauperis*. Indeed, the Court noted that Plaintiff's application to proceed *in forma pauperis* was incomplete as he failed to attach a prison account statement certified by the authorized officer of the institution.

Subsequently, Plaintiff has submitted three applications to proceed *in forma pauperis*. Therefore, the Clerk will be ordered to reopen this case. Plaintiff's three applications to proceed *in forma pauperis* all suffer from a similar defect. As the Court noted in its previous Opinion administratively terminating this action, the prisoner must submit a certified copy of his inmate trust fund account statement for the six-month period immediately preceding the filing of his complaint. *See id.* § 1915(a)(2). The prisoner must obtain this statement from the appropriate official of each prison at which he was or is confined. *See id.*; *see also* L.Civ.R. 81.2(b) ("Whenever a Federal, State, or local prisoner submits a civil rights complaint . . . the prisoner shall also submit an affidavit setting forth information which establishes that the prisoner is

unable to pay the fees and costs of the proceedings and shall further submit a certification signed by an authorized officer of the institution certifying (1) the amount presently on deposit in the prisoner's prison account and, (2) the greatest amount on deposit in the prisoner's prison account during the six-month period prior to the date of the certification."). In this case, while Plaintiff has submitted his prisoner account statement, the prisoner account statement has not been certified by the appropriate prison official. Therefore, Plaintiff's applications to proceed *in forma pauperis* are incomplete and will be denied without prejudice.

As Plaintiff has neither pre-paid the filing fee nor submitted a complete application to proceed *in forma pauperis*, the Clerk will be ordered to re-administratively close the case. However, Plaintiff shall be given an opportunity reopen this action by either paying the filing fee or submitting a complete *in forma pauperis* application.

Accordingly, IT IS on this 21st day of May, 2014,

ORDERED that the Clerk shall reopen this case; and it is further
ORDERED that Plaintiff's applications to proceed *in forma pauperis* (Dkt. Nos. 4, 5 and 6.) are denied without prejudice; and it is further

ORDERED that the Clerk shall re-administratively terminate this case, without filing the complaint or assessing a filing fee; Plaintiff is informed that administrative termination is not a "dismissal" for purposes of the statute of limitations, and that if the case is reopened, it is not subject to the statute of limitations time bar provided the original complaint was timely; and it is further

ORDERED that Plaintiff may have the above entitled case reopened, if, within thirty (30) days of the date of the entry of this Order, Plaintiff either pre-pays the \$400 filing fee

or submits to the Clerk a complete signed *in forma pauperis* application, including a certified six-month prison account statement; and it is further

ORDERED that upon receipt of a writing from Plaintiff stating that he wishes to reopen this case, and either a complete *in forma pauperis* application or filing fee, within the time allotted by this Court, the Clerk will be directed to reopen this case; and it is further

ORDERED that the Clerk shall serve on Plaintiff by regular U.S. mail the Opinion and Order and a blank form application to proceed *in forma pauperis* in a prisoner civil rights case.



ROBERT B. KUGLER
United States District Judge